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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/734,511	12/12/2003	Miroslav Cina	13913-119001	9999

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EXAMINER
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LUU, SY D

ART UNIT	PAPER NUMBER
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2174

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/07/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/734,511

Applicant(s)

CINA, MIROSLAV

Examiner

Sy D. Luu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 101*

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 1-4 and 13-16 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter, specifically a computer software application. It appears that the computer software product to perform the steps as recited in claim 1 fails to be tangibly embodied on a computer readable medium so as to be executable. Computer programs claimed as computer code per se, i.e., the descriptions or expressions of the programs, are not physical "things," nor are they statutory processes, as they are not "acts" being performed. Such claimed computer programs do not define any structural and functional interrelationships between the computer program and other claimed aspects of the invention which permit the computer program's functionality to be realized. In contrast to the claimed "information carrier," which is not a tangible medium, a claimed computer - readable medium encoded with a computer program defines structural and functional interrelationships between the computer program and the medium which permit the computer program's functionality to be realized, and is thus statutory. See MPEP §2106 Section IV.B.1(a).

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 1-2, 5-6, 9-10, 13-14, 17-18 and 21-22 are rejected under 35 U.S.C. 102(e) as being anticipated by Wright et al. ("Wright", US 7,089,508 B1).

As per claim 1, Wright teaches a computer program product, tangibly embodied in an information carrier, the computer program product being operable to cause data processing apparatus to perform operations comprising: displaying a transaction screen containing data for a transaction, waiting to receive user input to the transaction screen, and automatically refreshing the screen with updated data if user input is not received within a pre-determined period of time (col. 4, line 62 – col. 5, line 40; *an instance always exists in which an application having a transaction screen waiting for an input*

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*from user, wherein pseudo user inputs, e.g. mouse movements, would inherently keep the screen refreshed).*

As per claim 2, Wright teaches the steps of starting a timer that times out after a pre-determined period of time has lapsed (col. 5, lines 36-40); once the timer times out, simulating user input requesting that the screen be refreshed, and refreshing the screen with updated data in response to the simulated user input (col. 5, lines 46-54; *a pseudo user input would be generated which inherently keep the screen refreshed*).

Claims 5-6 are similar in scope to claims 1-2 respectively, and are therefore rejected under similar rationale.

Claims 9-10 are similar in scope to claims 1-2 respectively, and are therefore rejected under similar rationale.

Claims 13-14 are similar in scope to claims 1-2 respectively, and are therefore rejected under similar rationale.

Claims 17-18 are similar in scope to claims 1-2 respectively, and are therefore rejected under similar rationale.

Claims 21-22 are similar in scope to claims 1-2 respectively, and are therefore rejected under similar rationale.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3-4, 7-8, 11-12, 15-16, 19-20, and 23-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wright et al. ("Wright", US 7,089,508 B1).

As per claims 3-4, while Wright suggests the data processing apparatus to include a client and a server, and the step of displaying a transaction screen to be performed on and by the client or the server in any suitable environments (col. 2, lines 33-43), Wright does not explicitly indicate: (a) the displaying step to be performed by the client, and the simulating user input step is performed by the server; and (b) the server is a transaction processing application whose execution involves multiple phases including: a first phase that involves displaying a transaction screen; a second phase that involves waiting for user interaction with the transaction screen; and a third phase that involves processing user interaction with the transaction screen. However, official notice is taken that in a client/server environment, any combination of distributed operations could be delegated between the client and server depending on design and implementation choice and preference. It would have been obvious to an artisan at the time of the invention to include the combination of steps server phases as claimed with Wright's program product in order to take advantage of the distributed functionalities of a client/server computing environment.

Claims 7-8 are similar in scope to claims 3-4 respectively, and are therefore rejected under similar rationale.

Claims 11-12 are similar in scope to claims 3-4 respectively, and are therefore rejected under similar rationale.

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Claims 15-16 are similar in scope to claims 3-4 respectively, and are therefore rejected under similar rationale.

Claims 19-20 are similar in scope to claims 3-4 respectively, and are therefore rejected under similar rationale.

Claims 23-24 are similar in scope to claims 3-4 respectively, and are therefore rejected under similar rationale.

***Inquires***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sy Luu whose telephone number is **(571) 272-4064**. The examiner can normally be reached on Monday - Friday from 7:300 am to 4:00 pm (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine Kincaid, can be reached on (571) 272-4063.

The fax number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**SY D. LUU  
PRIMARY EXAMINER  
ART UNIT 2174**